

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

STANLEY RAY DIJON LINZY,)	
)	
Plaintiff,)	
)	
vs.)	No. CIV-16-1031-W
)	
JASON BRYANT,)	
)	
Defendant. ¹)	

ORDER

On November 29, 2016, United States Magistrate Judge Suzanne Mitchell issued a Report and Recommendation in this matter and recommended that the Court dismiss without prejudice the claims asserted by plaintiff Stanley Ray Dijon Linzy against defendant Oklahoma Department Corrections ("ODOC") and likewise dismiss without prejudice those claims for monetary relief asserted against defendant Jason Bryant in his official capacity. See Doc. 14 at 5. Magistrate Judge Mitchell further recommended that Linzy, a state prisoner proceeding pro se, be granted leave to amend because in her opinion he could potentially correct the pleading defect as to defendant Bryant. See id.

Although Linzy was advised of his right to object to the Report and Recommendation, see id., he has instead filed an amended complaint. See Doc. 15. ODOC is not named as a defendant in the amended pleading, and Bryant has been sued only in his individual capacity. See id. at 4.

¹Rule 10(a), F.R.Civ.P., provides that "[t]he title of the complaint must name all the parties[.]" The title of this Order reflects the title Linzy used in his amended complaint. See Doc. 15.

Upon review of the record, the Court concurs with Magistrate Judge Mitchell's suggested disposition of Linzy's original complaint. Accordingly, the Court

(1) ADOPTS the Report and Recommendation, see Doc. 14, issued on November 29, 2016;

(2) DISMISSES without prejudice Linzy's claims against ODOC and his claims for monetary relief against Bryant in his official capacity;

(3) AGREES that amendment should be permitted in this instance; and

(4) in light of the amended complaint, see Doc. 15, file-stamped December 8, 2016, RE-REFERS this matter to Magistrate Judge Mitchell for further proceedings.

ENTERED this 12th day of December, 2016.


LEE R. WEST
UNITED STATES DISTRICT JUDGE